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OFFICE OF PETITIONS

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In re Patent No. 7,678,813	:	DECISION ON REQUEST FOR
Clark et al.	:	RECONSIDERATION OF
Issue Date: March 16, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/596,998	:	AND
Filed: March 8, 2007	:	NOTICE OF INTENT TO ISSUE
Docket No. 019904-003010US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 12, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least three hundred fifty-eight (358) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred twenty (420) days**.

The Office agrees with patentee that the provisions of 35 U.S.C. 154(b) related to adjustment of patent term apply as this is an international application filed after May 29, 2000. Accordingly, the Office concurs that patentees are entitled to period of adjustment of 196 days, pursuant to 37 CFR 1.702(a)(1), for the mailing of the Restriction Requirement on November 20, 2008, 14 months and 196 days, after the fulfillment of the requirements of 35 U.S.C. 371 on March 8, 2007. A period

of adjustment for Office delay of 196 days will be entered. Accordingly, A delay is 196 days.

The Office also agree that patentee should have been assessed a delay of 25 days, pursuant to 37 CFR 1.704(b), for the filing of a reply on July 8, 2009, three months and 25 days after the mailing of the non-final Office action. A period of reduction of 25 days will be entered. Accordingly, applicant delay is 25 days.

Lastly, the Office concurs that patentee is entitled to a period of adjustment pursuant to 37 CFR 1.702(b). However, the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of July 10, 2006, not July 9, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Thus, the commencement date is Monday, July 10, 2006. The period of adjustment under 37 CFR 1.702(b) is 249 days, beginning on July 11, 2009, the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b) and ending on March 16, 2010, the date the patent issued. Accordingly, B delay is 249 days.

The patent term adjustment is 420 days (196 days of A delay + 249 days of B delay - 25 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the required fee of \$200.00 set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred twenty (420) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,678,813 B2

DATED : Mar. 16, 2010

DRAFT

INVENTOR(S) : Clark et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 420 days--

PTE Calculations for Application: 10/596998

Application Filing Date:	03/08/2007	PTO Delay (PTO):	0
Issue Date of Patent:	03/16/2010	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTE (days):	420
PTO Delay Adjustment:	420		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	249		
68	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
67	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	196		
48	10/19/2009	MAIL NOTICE OF ALLOWANCE			
47	10/16/2009	ISSUE REVISION COMPLETED			
46	10/16/2009	DOCUMENT VERIFICATION			
45	10/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	10/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
43	10/06/2009	NOTICE OF ALLOWABILITY			
42	10/05/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	07/30/2009	DATE FORWARDED TO EXAMINER			
37	07/08/2009	RESPONSE AFTER NON-FINAL ACTION			
36	07/08/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	03/13/2009	MAIL NON-FINAL REJECTION			
34	03/12/2009	NON-FINAL REJECTION			
32	03/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/12/2009	DATE FORWARDED TO EXAMINER			
27	12/15/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
26	11/20/2008	MAIL RESTRICTION REQUIREMENT			
25	11/20/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
20	05/02/2008	PRELIMINARY AMENDMENT			
19	10/17/2007	FILING RECEIPT - CORRECTED			
18	08/30/2007	PG-PUB ISSUE NOTIFICATION			

17	07/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	06/26/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	03/08/2007	REFERENCE CAPTURE ON IDS			
14	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/19/2007	APPLICATION DISPATCHED FROM OIPE			
9	03/08/2007	371 COMPLETION DATE			
8	05/24/2007	SENT TO CLASSIFICATION CONTRACTOR			
7	05/24/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	03/08/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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